

Chairman Vap called the regularly scheduled meeting to order at 10:01 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

GENERAL ADMINISTRATION

Notice was duly published August 17, 2004, on Page 9 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held August 24, 2004, at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

Wednesday, August 25, 2004:

- PI-83 In the Matter of the Commission, on its own motion, seeking to investigate the feasibility and propriety of the regulation of wireless carriers.
- 9:00 AM City Council Chambers, City Hall, 100 East 1st Street, Grand Island. Commissioner Rod Johnson chairing.
- 7:00 PM City Council Chambers, City Hall, 309 Madison Avenue, Norfolk. Commissioner Rod Johnson chairing.

Wednesday, August 25 through Friday, August 27, 2004:

- NUSF-26 Video Conference. Commission Library, Lincoln and Nebraska State Office Building, Room 207, 1313 Farnam Street, Omaha.
9:00 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism. Commissioner Landis chairing.

COMMUNICATIONS DEPARTMENT

- C-3131 In the Matter of the residents of the Sumner exchange requesting extended area service (EAS) to the Kearney exchange, both served by Citizens Telecommunications Company of Nebraska: Gene Hand informed the Commission that a draft extended area service (EAS) ballot and letter had been received from Frontier. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to approve the ballot and letter. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3201 In the Matter of Qwest Communications Corporation, Denver, Colorado, seeking authority to operate as a competitive local exchange carrier of telecommunications services within the State of Nebraska (Boyle): Gene Hand informed the Commission that a Response to Motions to Dismiss had been received by Qwest. Hearing Officer Boyle indicated an order ruling on the motion will be forthcoming.

C-3204 In the Matter of Sprint Communications, L.P., Overland Park, Kansas, seeking approval of an amendment to its Certificate of Public Convenience and Necessity to provide local exchange telecommunications service in all exchanges within the State of Nebraska in which Sprint is not currently certificated: Gene Hand informed the Commission that a Hearing Officer order was issued including the scheduling of a hearing for November 4, 2004, at 10:00 a.m. in the Commission Hearing Room, Lincoln. Commissioner Landis will preside as Hearing Officer.

C-3205 In the Matter of Global Connection Inc. of America, Atlanta, Georgia, seeking a certificate of authority to operate as a reseller and facilities-based UNE-P common carrier of local exchange and interexchange telecommunications services: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3206 In the Matter of the Commission, on its own motion seeking to administer the Nebraska Internet Enhancement Fund: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to enter an order inviting applicants recommended by the NIEF Advisory Board to submit full applications. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. Commissioner Rod Johnson will preside as Hearing Officer.

C-3213 In the Matter of the Commission, on its own motion, seeking
DC-67 an order to cease and desist operations and to revoke the Certificates of Public Convenience and Necessity issued to the named defendants: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an order dismissing the complaint in part. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. Commissioner Vap will preside as Hearing Officer.

COMMUNICATIONS DEPARTMENT (Cont.)

C-3223 In the Matter of US LEC Communications, Inc., Charlotte, North Carolina, seeking authority to provide interLATA interexchange telecommunications services in the State of Nebraska: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3228 In the Matter of Time Warner Cable Information Services (Nebraska), LLC, d/b/a Time Warner Cable, Stamford, Connecticut, seeking authority to provide local and interexchange voice services within the State of Nebraska: Gene Hand informed the Commission that a Modified Prehearing Conference Order was entered rescheduling the hearing previously set for September 24, 2004, to a video hearing on September 17, 2004, at 9:00 a.m. in the Commission Library, Lincoln; Hastings Public Library, 2nd Floor, 517 West 4th Street; and McCook Community College, McMillen Hall, Room 208, 1205 East 3rd Street, McCook. Commissioner Landis will preside as Hearing Officer.

C-3236 In the Matter of Citizens Telecommunications Company of Nebraska, d/b/a Frontier Communications, Mound, Minnesota, seeking approval of its Interconnection and Traffic Interchange Agreement for Commercial Mobile Radio Services with AT&T Wireless Services, Inc., Redmond, Washington: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3237 In the Matter of Citizens Telecommunications Company of Nebraska, d/b/a Frontier Communications, Mound, Minnesota, seeking approval of its Interconnection and Traffic Interchange Agreement for Commercial Mobile Radio Services with NE Colorado Cellular, Inc., Fort Morgan, Colorado: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3239 In the Matter of Qwest Corporation, Denver, Colorado, seeking approval of its Agreement to Adopt Qwest's Statement of Generally Available Terms (SGAT) and Associated Exhibits with Lightyear Network Solutions, Louisville, Kentucky: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT (Cont.)

Gene Hand informed the Commission that State Commissions from Qwest's 14-state region are developing a collaborative for the purpose of conducting a joint audit of Qwest's performance measures and voluntary payments.

Gene Hand informed the Commission that the Federal Communications Commission had issued interim rules to temporarily replace the parts of the triennial review order that were vacated by the District of Columbia Circuit Court on June 16, 2004.

UNIVERSAL SERVICE FUND DEPARTMENT

NUSF-26 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter an order scheduling a hearing for the Telehealth Plan on September 1, 2004, at 10:00 a.m. in the Commission Library, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. Commissioner Vap will preside as Hearing Officer.

NUSF-32 In the Matter of the Commission, on its own motion, seeking to conduct an inquiry into the failure of various companies to comply with Commission Orders and, at its own discretion, impose administrative fines against the named defendants: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order dismissing NE Colorado, dba Viaero, from this proceeding. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NUSF-40/
PI-86 In the Matter of the Commission, on its own motion seeking to determine the extent to which Voice Over Internet Protocol services should be subject to the Nebraska Universal Service Fund requirements: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter an order opening this investigation. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. Commissioner Landis will preside as Hearing Officer.

NUSF-5/
C-2045 In the Matter of the Commission, on its own motion, seeking to prescribe fair, just, and reasonable local rates for all incumbent local exchange carriers in the state of Nebraska pursuant to Neb. Rev. Stat. Sec. 86-803(4): Jeff Pursley reported that a Hearing Officer's Order had been issued on Friday, August 20, 2004, to continue the hearing previously set for August 24, 2004, to a date later to be determined, dependant upon negotiations.

UNIVERSAL SERVICE FUND

NUSF-26 In the Matter of the Commission, on its own motion, seeking to establish a long-term universal service funding mechanism: Jeff Pursley reported that comments, filed July 28, 2004 through August 13, 2004, and pre-filed testimony of August 11, 2004, had been assembled and distributed to the Commissioners in preparation for the August 25-27, 2004 Hearing. Commissioner Vap will preside as Hearing Officer.

E911 DEPARTMENT

PSAP-036 In the Matter of Lincoln Emergency Communications Center, Lancaster County, seeking funding approval for costs associated with wireless implementation: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order granting the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Kara Thielen discussed information regarding the Request For Proposals (RFP) and recommendations for vendors of choice. The following vendors were approved: Alltel/Plant; Contact One; GeoComm; GIS Workshop; Platte Valley/GeoComm/TCI; and Qwest/Positron. This listing is in alphabetical order and no scoring rank should be assumed from this listing.

Kara Thielen informed the Commission that a Wireless E911 Advisory Board meeting will be held on October 1, 2004, in the Commission Library from 10:00 a.m. to 2:00 p.m.

NATURAL GAS DEPARTMENT

NG-0025/ In the Matter of OneOK Energy Marketing Company, Tulsa, PI-85 Oklahoma, seeking suspension of Kinder Morgan, Inc.'s proposed changes to the terms and conditions of its Agriculture Choice Gas Service, Seasonal Service and Choice Gas Service Tariffs, and petitioning the Commission to open an investigation: Laura Demman informed the Commission that Cornerstone Energy, Inc. filed an application to informally intervene and the Public Alliance for Community Energy filed a petition to formally intervene.

P-0008 In the Matter of Aquila, Inc., Omaha, seeking resolution of a dispute under Neb. Rev. Stat. Section 57-1306-Stonecrest/ Meridian Park Subdivision: Laura Demman reported on the Formal Complaint received, with Certificate of Service distributed providing that a Statement of Satisfaction is due August 26, 2004, or Answer to complaint will be due August 31, 2004.

NATURAL GAS DEPARTMENT (Cont.)

P-0009 In the Matter of Aquila, Inc., Omaha, seeking resolution of a dispute under Neb. Rev. Stat. Section 57-1306 - Palisades Subdivision: Laura Demman reported on the Formal Complaint received, with Certificate of Service distributed providing that a Statement of Satisfaction is due August 26, 2004, or Answer to complaint will be due August 31, 2004.

RULES AND REGULATIONS

Rule and In the Matter of the Commission, on its own motion, seeking Regulation to amend Title 291, Chapter 1, Rules of Commission Procedure, to rewrite a substantial portion of the rules; #161 correct technical errors, grammar, punctuation, spelling, sequential numbering and the like; and reprint the chapter in its entirety: Andy Pollock discussed the status of the rewrite of these rules.

LEGISLATIVE REPORT

Andy Pollock reported on, and the Commission discussed, proposed telecommunications legislation for the 2005 session.

GRAIN WAREHOUSE DEPARTMENT

The following shortages were discussed:

GW-181 Corn at Lisco Elevator Incorporated, Lisco.
GW-1107 Corn and soybeans at Farmers Cooperative of McCool Junction, Nebraska.
GW-2115 Corn at Farmers Elevator Company, a Cooperative, Kimball.

GW-5 In the Matter of Thelen Grain Company, Wood River: John Fecht discussed the CPA financial report and possible subsequent action.

John Fecht reported that there are 2 grain warehouse and 8 grain dealer licenses that have not been renewed due to background checks.

GW-14/ In the Matter of John A. Fecht, Director, Warehouse
GWC-391 Department, Complainant v. Grain Warehouses who have failed to file the two cent per bushel additional security:
Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter an order to Show Cause and schedule a hearing for September 29, 2004, 10:00 a.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. Commissioner Jerry Vap will preside as Hearing Officer.

GRAIN WAREHOUSE DEPARTMENT (Cont.)

GW-378 In the Matter of Nationwide Mutual Insurance Company
 seeking to cancel their Continuous Public Grain Warehouse
Bond No. Bd 7777 in the amount of \$500,000.00, issued on behalf of
Battle Creek Farmers Cooperative, Non-Stock, Battle Creek, Bloomfield,
Osmond, Pierce, Norfolk, and Plainview: Application was granted
effective August 15, 2004.

GW-1930 In the Matter of Mueller Grain, Inc., Emerson, seeking a
 \$25,000.00 deductible on their stock insurance Coverage:
Motion made by Commissioner Rod Johnson, seconded by Frank Landis,
to enter an order approving the deductible. Motion passed with
Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis,
and Jerry Vap voting AYE.

GW-1985 In the Matter of M & N Grain, Inc., Inavale, seeking to
 cancel its Grain Warehouse License: Application was
granted effective August 16, 2004.

GW-2157 In the Matter of Tri-State Insurance Company of Minnesota
 seeking to cancel their Continuous Public Grain Warehouse
Bond No. 702 42 49 in the amount of \$153,900.00, issued on behalf of
Coleridge Grain & Feed, Inc., Coleridge: Application was granted
effective August 20, 2004.

Grain Dealer Division

GD-1107 In the Matter of Farmers Cooperative Association of McCool
 Junction, Nebraska, seeking cancellation of its Grain
Dealer License. Application was granted effective August 1, 2004.

GW-2138 In the Matter of Atlanta Grain, Atlanta: Angela Melton
GWC-368 reported on the Nebraska Supreme Court's decision in the
Atlanta Grain appeal.

Commissioner Rod Johnson exited the Commission Hearing
Room.

TRANSPORTATION DEPARTMENT

B-1634 In the Matter of Liberty Transportation, Inc., Omaha, seek-
 ing authority as a common carrier of passengers in open
class service by vans between points in Douglas, Sarpy, Cass, and
Washington counties over irregular routes. To include the transpor-
tation of Health and Human Services clientele and their subcontractors
thereof. RESTRICTION: The transportation of railroad train crews and
their baggage is not authorized: Motion made by Commissioner Anne
Boyle, seconded by Commissioner Lowell Johnson, to deny the Motion for
Rehearing and/or Reconsideration. Motion passed with Commissioners
Anne Boyle, Lowell Johnson, Frank Landis, and Jerry Vap voting AYE,
Commissioner Rod Johnson Excused Not Voting.

TRANSPORTATION DEPARTMENT (Cont.)

Rate Division

BR-295 In the Matter of Hope Transportation, Inc., Omaha seeking to amend its rates for transportation: Motion made by Commissioner Anne Boyle, seconded by Commissioner Lowell Johnson, to grant the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, and Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F. The fuel surcharge was increased to 32 cents per mile and the taxi surcharge retained at 40 cents per trip.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to approve the following invoices: Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

DAS - IMServices	\$ 614.22
DAS - Materiel	650.73
Dell	1,961.16
Kelly Services	1,303.93
Kelly Services	625.63
Angela Melton	553.73

Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to approve Commission minutes for the month of July 2004. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Frank Landis, Jerry Vap voting AYE, Commissioner Rod Johnson Excused Not Voting.

Upon agreement of all Commissioners present, authorization was granted for Mark Luttich to attend the National Conference of States on Building and Codes and Standards, to be held in Salt Lake City, Utah, from September 28-30, 2004. Mark will be chairing the Factory Built Structures Committee meeting on Wednesday, September 29th. Expenses will be paid equally from the Manufactured Home and Modular Housing Unit Programs.

Upon agreement of all Commissioners present, authorization was granted for Bob Bowman to travel to Clay Center, Kansas, on August 25, 2004, to perform a modular housing factory inspection at Wardcraft Homes with all expenses, including time, to be reimbursed to the Commission by Wardcraft Homes.

GENERAL ADMINISTRATION (Cont.)

Upon agreement of all Commissioners present, authorization was granted for Commissioner Anne Boyle to attend the National Association of Telecommunications Officers and Administrators (NATOA) Annual Conference to be held in San Francisco, California, from September 16-19, 2004.

Commissioner Rod Johnson returned to the Commission Hearing Room.

John Burvainis and Steve Stovall led a discussion of the Commission budget proposal for 2005-06 and 2006-07. Commissioner Frank Landis left the Commission Hearing Room during this discussion.

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to go into closed session to discuss personnel matters. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting. The Commission went into closed session at 11:15 a.m.

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to return to open session. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting. The Commission returned to open session at 11:55 a.m.

The meeting adjourned at 11:55 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, and Vap present, and Commissioner Landis excused. The next regularly scheduled meeting will be held on August 31, 2004, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on August 30, 2004.

Chairman

Executive Director